

ORDINANCE NO. 1461

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE BENBROOK COMPREHENSIVE PLAN CHANGING THE LAND USE DESIGNATION OF 8.82 ACRES OF LAND SITUATED IN THE ELIZABETH LANGSTON SURVEY, ABSTRACT NUMBER 988 AND THE EDWARD TAYLOR SURVEY, ABSTRACT NUMBER 1560, TARRANT COUNTY, BENBROOK, TEXAS FROM MEDIUM DENSITY RESIDENTIAL (MDR) TO LOW DENSITY RESIDENTIAL (LDR); AND FURTHER AMENDING TITLE 17 - ZONING OF THE BENBROOK MUNICIPAL CODE (1985), AS AMENDED, BY CHANGING THE ZONING CLASSIFICATION OF 8.82 ACRES OF LAND SITUATED IN THE ELIZABETH LANGSTON SURVEY, ABSTRACT NUMBER 988 AND THE EDWARD TAYLOR SURVEY, ABSTRACT NUMBER 1560, TARRANT COUNTY, BENBROOK, TEXAS, FROM "C" MULTIPLE-FAMILY DISTRICT TO "PD" PLANNED DEVELOPMENT DISTRICT FOR SINGLE-FAMILY USES, AND AMENDING THE OFFICIAL ZONING AND FUTURE LAND USE MAPS TO REFLECT THE CHANGE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN PAMPHLET FORM; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Benbrook is a home rule city acting under its own charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, Chapter 211 of the Local Government Code authorizes municipalities to regulate land use, structures, businesses, and related activities within its corporate limits for the purpose of promoting the public health, safety and general welfare of the community and protecting and preserving places and areas of historical, cultural and architectural importance and significance; and

WHEREAS, the property owner submitted an application requesting a change to the Future Land Use Map (FLUM) of the Benbrook Comprehensive Plan and zone district classification of the herein referenced property; and

WHEREAS, public hearings were held on said application, Case Number Z-20-01, by the Benbrook Planning and Zoning Commission on the 10th day of September, 2020 and by the Benbrook City Council on the 1st day of October 2020; and

WHEREAS, all requirements of law dealing with other property owners, publications and all procedural and regulatory requirements have been complied with in accordance with Chapter 211 of the Local Government Code; and

WHEREAS, the City Council has determined that it is advisable and in the public interest to authorize the requested zoning change.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BENBROOK, TEXAS:

SECTION 1

That the Future Land Use Map (FLUM) of the Benbrook Comprehensive Plan, is hereby amended to change the land use designation of 8.82 acres of land situated in the Elizabeth Langston Survey, Abstract Number 988 and the Edward Taylor Survey, Abstract Number 1560, Tarrant County, Benbrook, Texas, and as geographically depicted in Exhibit B, from Medium Density Residential (MDR) to Low Density Residential (LDR).

SECTION 2

That Title 17 – Zoning of the Benbrook Municipal Code (1985), as amended, is hereby amended to change the zoning classification of 8.82 acres of land situated in the Elizabeth Langston Survey, Abstract Number 988 and the Edward Taylor Survey, Abstract Number 1560, Tarrant County, Benbrook, Texas, as legally described in Exhibit A and geographically depicted in Exhibit B, from “C” Multiple Family to “PD” Planned Development District, with allowed uses as described in Section 4 of this ordinance and with development requirements as outlined in Section 5 of this ordinance.

SECTION 3 PURPOSE

The purpose of this ordinance is to provide for the appropriate restrictions and development controls beyond those found within the City’s straight zoning districts (e.g. the “BR” One-Family Reduced, “B” One-Family, and “A” One-Family districts), thus permitting the development of a single family use in a manner that is compatible with surrounding development and in compliance with the City’s Comprehensive Plan and other adopted policies and regulations.

The zoning district changes established by this ordinance are in accordance with the comprehensive plan of the city and will promote the health, safety, morals, and general welfare of the community. The changes have been designed to lessen congestion in the streets, to secure safety from fire, panic, flood and other dangers, to provide for adequate light and air, to prevent overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provisions of transportation, water, sewerage, parks and other public requirements. They have been made after a full and complete hearing with reasonable consideration of, among other things, the character of the districts and their peculiar suitability for particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the community.

SECTION 4 ALLOWED USES

Permitted uses, conditional uses, and accessory uses are subject to all standards of the “BR” One-Family Reduced District, Chapter 17.44 of Title 17 – Zoning of the Benbrook Municipal Code, as amended.

SECTION 5 DEVELOPMENT STANDARDS

Development requirements of this district shall meet the “BR” One-Family Reduced District standards, as found in Chapter 17.44 of Title 17 – Zoning of the Benbrook Municipal Code, as amended, except as follows:

1. Density and Dimensional Standards shall be as follows:
 - a. Maximum Density. The density of the district shall not exceed 4.65 dwelling units per gross acre.
 - b. Minimum Living Area. Each dwelling unit shall have a minimum living space of 1,500 square feet.
 - c. Minimum Lot Area. Each lot shall be no less than 6,000 square feet.
 - d. Minimum Lot Width. Each lot shall be no less than fifty (50) feet in width.
 - e. Side Yard Setback. No primary building shall be located closer than five (5) feet from an interior side property line.
2. Parking Standards. Parking regulations shall adhere to the minimum development standards in accordance with Chapter 17.88 of Title 17 – Zoning of the Benbrook Municipal Code, as amended.
3. Landscaping Standards. Landscaping and screening shall comply with Chapter 17.98 of Title 17 – Zoning of the Benbrook Municipal Code, as amended, except that a wrought iron style fence, as detailed in Exhibit C and the applicable covenants and bylaws of the Whitestone Point Homeowner’s Association, as amended, shall be constructed and maintained along the easterly most property lines of all residential lots directly abutting Lot 2B, Block A, Whitestone Golf Course Addition.
4. Subdivision Regulations. Property within this planned development district shall adhere to the same regulations of Title 16 – Subdivisions of the Benbrook Municipal Code, as amended, for land situated in a “BR” One-Family zoning district, except for the following:
 - a. Tree Preservation and Mitigation. Notwithstanding Section 16.28.010 of the Benbrook Municipal Code, trees identified and counted towards the preservation requirements may be removed; however, each caliper-inch (dbh) of preserved trees removed shall be mitigated at a 1 to 1 ratio.
 - b. Payment in lieu of mitigation for greater than fifty percent (50%) of the total caliper-inches (dbh) of preserved trees removed must be approved by the planning and zoning commission.
 - c. Payment in lieu of mitigation for less than fifty percent (50%) of the total caliper-inches (dbh) of preserved trees removed may be approved by the assistant city manager or designee.
 - d. The applicant shall pay the fees for tree removal established by city council in Chapter 1.12 of the Benbrook Municipal Code. Cash payment shall be deposited in the tree fund and be used to purchase and install

landscaping (inclusive of trees, bushes, shrubs, mulch, soil, decorative rocks or stones, irrigation, and necessary hardscape) at city parks, city tree farms, or other public areas.

SECTION 6 MAP CHANGES

The City Planner is hereby directed to amend the official zoning map and the Future Land Use Map of the Comprehensive Plan to reflect the changes approved by this ordinance.

SECTION 7 CUMULATIVE CLAUSE

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Benbrook, Texas (1985), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 8 SEVERABILITY CLAUSE

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 9 PENALTY CLAUSE

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for all violations involving zoning, fire safety or public health and sanitation, including dumping of refuse, and shall be fined not more than Five Hundred Dollars (\$500.00) for all other violations of this ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 10 SAVINGS CLAUSE

All rights and remedies of the City of Benbrook are expressly saved as to any and all violations of the provisions of the Benbrook Municipal Code (1985), as amended,

or any ordinances regulating platting or Zoning which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 11 PUBLICATION IN PAMPHLET FORM

The City Secretary of the City of Benbrook is hereby authorized to publish this ordinance in book or pamphlet form for general distribution among the public, and the operative provisions of this ordinance as so published shall be admissible in evidence in all courts without further proof than the production thereof, as provided in Section 3.10 of the Charter of the City of Benbrook.

SECTION 12 ENGROSSMENT AND ENROLLMENT

The City Secretary of the City of Benbrook is hereby directed to engross and enroll the ordinance by copying the caption, penalty clause, and effective date clause of this ordinance in the minutes of the City Council and by filing the ordinance in the ordinance records of the City.

SECTION 13 PUBLICATION IN OFFICIAL NEWSPAPER

The City Secretary of the City of Benbrook is hereby directed to publish the caption, penalty clause, publication clause and effective date clause of this ordinance for two (2) days in the official newspaper of the City of Benbrook, as authorized by Section 52.013 of the Local Government Code.

SECTION 14 EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage and it is so ordained

PASSED AND APPROVED this 1st day of October 2020.

Jerry B. Dittrich, Mayor

ATTESTED BY:

Joanna King, City Secretary

EXHIBIT A

Description of Proposed Zoning Change

BEING a tract of land situated in the Elizabeth Langston Survey, Abstract Number 988 and the Edward Taylor Survey, Abstract Number 1560, Tarrant County, Texas, being a portion of that certain tract of land (Tract 2) described by deed to GBR Realty, Ltd., recorded in Instrument Number D205226033, County Records, Tarrant County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at the northeast corner of said GBR tract and the northwest corner of Lot 2, Block A, Whitestone Golf Course Addition, an Addition to the City of Benbrook, Tarrant County, Texas, according to the Plat recorded in Cabinet A, Slide 5082, said County Records, and being in the south line of a tract of land described by deed to Texas Electric Service Company, recorded in Volume 5428, Page 543, said County Records;

THENCE along the common line of said GBR tract and said Lot 2 as follows;

S 10°36'57"W, 695.08 feet,

S 00°47'57"E, 567.06 feet to the north line of Jerry Dunn Parkway (60' right-of-way);

THENCE S 89°59'52"W, 322.22 feet, along the north line of said Jerry Dunn Parkway, to the southwest corner of said GBR tract and the southeast corner of a tract of land described by deed to GBR Realty, Ltd., recorded in Instrument Number D215163941, said County Records;

THENCE N 00°11'35"E, 1012.33 feet, along the common line of said GBR tracts, to the common north corner in the south line of said Texas Electric Service Company tract;

THENCE N 61°32'41"E, 499.26 feet, along the common line of said GBR (D205226033) and Texas Electric Service Company tracts, to the **Point of Beginning** and containing 384,184 square feet or 8.820 acres of land, more or less.

"This document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."

EXHIBIT B



